

§ 110-102.1A. Unauthorized administration of medication.

(a) It is unlawful for an employee, owner, household member, volunteer, or operator of a licensed or unlicensed child care facility as defined in G.S. 110-86, including child care facilities operated by public schools and nonpublic schools as defined in G.S. 110-86(2)(f), to willfully administer, without written authorization, prescription or over-the-counter medication to a child attending the child care facility. For the purposes of this section, written authorization shall include the child's name, date or dates for which the authorization is applicable, dosage instructions, and signature of the child's parent or guardian. For the purposes of this section, a child care facility operated by a public school does not include kindergarten through twelfth grade classes.

(b) In the event of an emergency medical condition and the child's parent or guardian is unavailable, it shall not be unlawful to administer medication to a child attending the child care facility without written authorization as required under subsection (a) of this section if the medication is administered with the authorization and in accordance with instructions from a bona fide medical care provider. For purposes of this subsection, the following definitions apply:

- (1) A bona fide medical care provider means an individual who is licensed, certified, or otherwise authorized to prescribe the medication.
- (2) An emergency medical condition means circumstances where a prudent layperson acting reasonably would have believed that an emergency medical condition existed.

(c) A violation of this section that results in serious injury to the child shall be punished as a Class F felony.

(d) Any other violation of this section where medication is administered willfully shall be punished as a Class A1 misdemeanor. (2003-406, s. 2.)